

§ 561.204

31 CFR Ch. V (7–1–13 Edition)

(i) Individuals who are citizens, nationals, or permanent residents of the country with primary jurisdiction over the foreign financial institution holding the funds; or

(ii) Entities that are organized under the laws of that country;

(6) The funds may not be withdrawn in cash, remitted to Iran or paid to anyone that is the *Government of Iran*, as defined in § 561.321, or credited to an account held at a financial institution whose name appears on the Part 561 List (see paragraph (j)(4) of this section); and

(7) Other than in payment for goods or services exported and sold to Iran as set forth in paragraphs (k)(4) through (k)(6) of this section, the funds may be transferred from the initial account described in paragraphs (k)(1) through (k)(3) of this section only to another account that is held at the same foreign financial institution, located in the country with primary jurisdiction over that foreign financial institution, and subject to the following conditions and restrictions:

(i) The account must be a separate, special purpose account holding only funds owed to Iran as a result of trade transactions that qualify for the significant reduction exception described in paragraph (i) of this section and that are conducted or facilitated by the foreign financial institution holding the account; and

(ii) The conditions and restrictions on the funds owed to Iran set forth in paragraphs (k)(1) through (k)(6) of this section apply in full to the account described in this paragraph, except that the account must be held only in the name of the Central Bank of Iran or an Iranian financial institution that is not a designated Iranian financial institution.

NOTE TO PARAGRAPHS (j) AND (k) OF § 561.203:

See § 561.408 for a provision interpreting the phrases goods or services originating in the country with primary jurisdiction over the foreign financial institution and goods or services originating in Iran.

NOTE 1 TO § 561.203: The sanctions regime described in § 561.203 is separate from the sanctions regimes described in §§ 561.201 and 561.204 and applies in addition to, and independently of, the sanctions regimes imposed under §§ 561.201 and 561.204.

NOTE 2 TO § 561.203: Paragraph (g) of this section excepts transactions for the sale of agricultural commodities, food, medicine, or medical devices to Iran from the imposition of sanctions under paragraph (a) of this section. Therefore, funds owed to Iran as a result of a trade transaction described in paragraph (j)(1) of this section may be used for the purchase and export to Iran of agricultural commodities, food, medicine, or medical devices regardless of the country from which such goods are purchased and regardless of where such goods originate, and payment from the funds for such goods may be made to exporters in countries other than the country with primary jurisdiction over the foreign financial institution holding the funds.

[77 FR 11726, Feb. 27, 2012, as amended at 78 FR 16405, Mar. 15, 2013]

§ 561.204 Additional petroleum-related sanctions on certain foreign financial institutions.

(a) *Imposition of sanctions.* Subject to the limitations, exceptions, and conditions set forth in paragraphs (d) through (f) of this section, upon a determination by the Secretary of the Treasury that a foreign financial institution has knowingly engaged in one or more of the activities described in paragraph (b) of this section, the Secretary of the Treasury may:

(1) Prohibit U.S. financial institutions from opening a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; and either

(2)(i) Prohibit U.S. financial institutions from maintaining a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; or

(ii) Impose one or more strict conditions on the maintaining of any correspondent account or payable-through account that had been opened in the United States for the foreign financial institution prior to the Secretary of the Treasury's determination with respect to the foreign financial institution.

NOTE 1 TO PARAGRAPH (a) OF § 561.204: The name of any foreign financial institution with respect to which a determination has been made pursuant to this paragraph (a),

along with the relevant sanctions to be imposed (prohibition(s) and/or strict condition(s)), will be added to the List of Foreign Financial Institutions Subject to Part 561 (the “Part 561 List”), which is maintained on the Office of Foreign Assets Control’s Web site (www.treasury.gov/ofac) on the Iran Sanctions page, and published in the FEDERAL REGISTER.

NOTE 2 TO PARAGRAPH (a) OF § 561.204: See § 561.203(b) for examples of strict conditions that might be imposed, pursuant to paragraph (a)(2)(ii) of this section, on the maintaining of a pre-existing correspondent account or payable-through account for a foreign financial institution with respect to which the Secretary of the Treasury’s determination has been made.

(b) *Sanctionable activity.* A foreign financial institution engages in an activity described in this paragraph if it knowingly conducts or facilitates any significant financial transaction:

(1) With the National Iranian Oil Company (“NIOC”), the Naftiran Intertrade Company (“NICO”), or any entity owned or controlled by, or operating for or on behalf of, NIOC or NICO, except for a sale or provision to any of the foregoing of the products described in section 5(a)(3)(A)(i) of the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note), as amended, provided that the fair market value of such products is lower than the applicable dollar threshold specified in that provision;

NOTE TO PARAGRAPH (b)(1) OF § 561.204: As of March 15, 2013, the products described in section 5(a)(3)(A)(i) of the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note), as amended, are refined petroleum products, and for the fair market value of such products to be lower than the applicable dollar threshold specified in that provision the products sold or provided to NIOC, NICO, or any entity owned or controlled by, or operating for or on behalf of, NIOC or NICO, must have a fair market value of less than \$1,000,000, and, during a 12-month period, an aggregate fair market value of less than \$5,000,000.

(2) For the purchase or acquisition of petroleum or petroleum products from Iran; or

(3) For the purchase or acquisition of petrochemical products from Iran.

(c) *Prohibitions.* (1) A U.S. financial institution shall not open a correspondent account or payable-through account in the United States for a for-

eign financial institution for which the opening of such an account is prohibited pursuant to paragraph (a)(1) of this section.

(2) A U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution for which the maintaining of such an account is prohibited pursuant to paragraph (a)(2)(i) of this section.

(3) A U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution in a manner that is inconsistent with any strict condition imposed and in effect pursuant to paragraph (a)(2)(ii) of this section.

(4) The prohibitions in paragraphs (c)(1) through (c)(3) of this section apply except to the extent transactions are authorized by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date of the prohibition.

(d) *Exempt activity.* Sanctions will not be imposed under paragraph (a) of this section with respect to any foreign financial institution for:

(1) Conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or when the underlying transaction has been authorized by the Office of Foreign Assets Control pursuant to any part of this chapter V; or

(2) Conducting or facilitating a transaction involving a natural gas development and pipeline project initiated prior to July 31, 2012, to bring gas from Azerbaijan to Europe and Turkey in furtherance of a production sharing agreement or license awarded by a sovereign government other than the Government of Iran before July 31, 2012.

NOTE TO PARAGRAPH (d)(2) OF § 561.204: The natural gas development and pipeline project referred to in this paragraph is the project to develop the Shah Deniz natural gas field in Azerbaijan’s sector of the Caspian Sea and related pipeline projects to bring the gas from Azerbaijan to Europe and Turkey.

(e) The Secretary of the Treasury may impose sanctions pursuant to

§ 561.205

31 CFR Ch. V (7–1–13 Edition)

paragraph (a) of this section with respect to any significant financial transaction described in paragraphs (b)(1) and (b)(2) of this section only if the President makes the successive determinations that there is a sufficient supply of petroleum and petroleum products from countries other than Iran described in paragraph (h) of § 561.203.

(f) Sanctions will not be imposed under paragraph (a) of this section with respect to any significant financial transaction described in paragraphs (b)(1) and (b)(2) of this section that is conducted or facilitated by a foreign financial institution if:

(1) For the 180-day period during which the financial transaction is conducted or facilitated, the Secretary of State has determined and reported to Congress:

(i) That the country with primary jurisdiction over the foreign financial institution has significantly reduced its crude oil purchases from Iran, thus qualifying for the “significant reduction exception” for the 180-day period during which the financial transaction is conducted or facilitated; or

(ii) That the country with primary jurisdiction over the foreign financial institution has received a significant reduction exception described in this paragraph in a previous period, and, after receiving the exception, has reduced its crude oil purchases from Iran to zero during a subsequent 180-day reporting period; and

(2) The transaction satisfies the conditions and restrictions set forth in paragraphs (j) and (k) of § 561.203.

NOTE TO PARAGRAPH (f) OF § 561.204: The Secretary of State is to determine whether a country qualifies for the “significant reduction exception” and report such determination to Congress not later than 90 days after the date on which the President makes the initial determination referenced in paragraph (h) of this section, and every 180 days thereafter. Accordingly, a significant reduction exception covers a period of 180 days.

NOTE TO § 561.204: The sanctions regime described in this section is separate from the sanctions regimes described in §§ 561.201 and 561.203 and applies in addition to, and independently of, the sanctions regimes imposed under §§ 561.201 and 561.203.

[78 FR 16407, Mar. 15, 2013]

§ 561.205 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this part is prohibited.

[78 FR 16408, Mar. 15, 2013]

Subpart C—General Definitions

§ 561.301 Effective date.

(a) The effective date of a prohibition or condition imposed pursuant to §§ 561.201, 561.203, or 561.204 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

(b) The effective date of the prohibition contained in § 561.202 with respect to Iran’s Islamic Revolutionary Guard Corps and any of its agents or affiliates whose property and interests in property are blocked as of August 16, 2010, is August 16, 2010.

(c) The effective date of the prohibition contained in § 561.202 with respect to an agent or affiliate of Iran’s Islamic Revolutionary Guard Corps whose property and interests in property become blocked after August 16, 2010, is the earlier of the date of actual or constructive notice that such person’s property and interests in property are blocked.

[77 FR 11726, Feb. 27, 2012, as amended at 78 FR 16408, Mar. 15, 2013]

§ 561.302 UNSC Resolution 1737.

The term *UNSC Resolution 1737* means United Nations Security Council Resolution 1737, adopted December 23, 2006.

§ 561.303 UNSC Resolution 1747.

The term *UNSC Resolution 1747* means United Nations Security Council Resolution 1747, adopted March 24, 2007.